

2002 with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231:

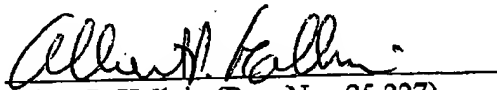
1. Cover Letter (1 page);
2. Response (2 pages);
3. Marked-up copy of Substitute Specification, including application cover sheet (774 pages);
4. Clean copy of Substitute Specification, including application cover sheet (774 pages);
5. Declaration (1 page);
6. Electronic Document containing the Sequence Listing; and
7. Return stamped postcard.

We submit a copy of the Cover Letter, Response, Declaration, paper copy of CD containing the Electronic Document containing the Sequence Listing, and the Return stamped postcard (front and back). The Cover Letter, Response and Declaration each have an executed Certificate of Mailing indicating that the documents were deposited with the United States Postal Service on April 4, 2002 with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231. Copies of items 3 and 4, and an electronic copy of item 6, were not in the file transferred to us from EpiGenesis.

In view that the Response was filed in a timely manner, Applicant respectfully requests the Examiner withdraw the Notice of Abandonment.

Respectfully submitted,

Date: June 19, 2003

  
Albert P. Halluin (Reg. No. 25,227)  
Robin C. Chiang (Reg. No. 46,619)

**HOWREY SIMON ARNOLD & WHITE, LLP**  
301 Ravenswood Avenue  
Box 34  
Menlo Park, CA 94025  
(650) 463-8109

## CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Examiner Janet L. Epps (Group Art Unit 1635) at (703) 746-5143 of the U.S. Patent and Trademark Office on June 19, 2003.

*Wanda Alleje*  
Wanda Alleje

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#/6

In re application of: Jonathan W. NYCE

Appl. No.: 09/543,679

Filed: April 4, 2000

For: **LOW ADENOSINE ANTI-SENSE  
OLIGONUCLEOTIDE, COMPOSITIONS,  
KIT & METHOD FOR TREATMENT OF  
AIRWAY DISORDERS WITH  
BRONCHOCONSTRICTION, LUNG  
INFLAMMATION, ALLERGY(IES) &  
SURFACTANT DEPLETION**

Art Unit: 1635

Examiner: Epps, Janet L.

Confirmation No. 6742

Atty. Docket: EPI-0067191  
(02486.0025.CPUS01)

## Statement Under 37 CFR 1.8(b) (1)

## Mail Stop

Commissioner for Patents

P. O. Box 1450

Alexander, VA 22313-1550

Sir:

In receiving a Notice of Abandonment dated June 12, 2003, Applicant first became aware that Examiner Epps had not yet received the Response mailed to the U.S. Patent and Trademark Office by first class mail pursuant 37 CFR 1.8(a) (1) on April 4, 2002.

This case was transferred to us from EpiGenesis Pharmaceuticals, Inc. ("EpiGenesis") in January, 2003. EpiGenesis has an exclusive license to this application from East Carolina University, the Assignee of this application.

In the file for this case, we have a copy of a Cover Letter, with an executed Certificate of Mailing pursuant to 37 CFR 1.8 on each document, indicating that the following documents were deposited with the United States Postal Service on April 4,

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jonathan W. Nyce : Art Unit: 1635  
Serial No.: 09/543,679 : Examiner: Dr. Janet Epps  
Filed: April 4, 2000 : Appl. Ref. No.: EPI-00671b  
For: **LOW ADENOSINE ANTI-SENSE OLIGONUCLEOTIDE, COMPOSITIONS,  
KIT & METHOD FOR TREATMENT OF AIRWAY DISORDERS ASSOCIATED  
WITH BRONCHOCONSTRICTION, LUNG INFLAMMATION, ALLERGY(IES)  
& SURFACTANT DEPLETION**

**COVER LETTER**

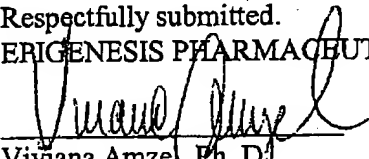
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir/Madam:

Enclosed for filing are the following:

1. Cover Letter (1 page)
2. Response (2 pages)
3. Marked-up copy of Substitute Specification, including application cover sheet (774 pages)
4. Clean copy of Substitute Specification, including application cover sheet (773 pages)
5. Declaration ( 1 page)
6. Electronic Document containing the Sequence Listing
7. Return stamped postcard

Respectfully submitted.  
ERICENESIS PHARMACEUTICALS, INC.

  
Viviana Amzel, Ph. D.  
Reg. No. 30930  
Attorney for Applicant

April 4, 2002  
Date

7 Clarke Drive  
Cranbury, NJ 08512  
Phone 609-409-3035  
Fax 609-860-8069  
Email VAmzel@epigene.com

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents Washington, D.C. 20231, on April 4, 2002, by Rashida Haji.

  
Signature

Electronic Document  
(Sequence Listing in Compact Disk)  
Docket No. EPI-00671b  
Title: Low Adenosine Anti-Sense Oligonucleotide,  
Compositions, Kit & Method For Treatment Of  
Airway Disorders Associated With  
Bronchoconstriction,  
Lung Inflammation, Allergy(ies) & Surfactant

Applicant: Jonathan W. Nyce  
Date of Making the Disk: April 4, 2002  
Filing Date: April 4, 2000  
Serial No. 09/543,679

Viviana Amzel, Ph.D.  
General Counsel, Legal Dept.  
EpiGenesis Pharmaceuticals, Inc.  
7 Clarke Drive,  
Cranbury, NJ 08512



JUN. 19. 2003 4:13PM

HOWREY SIMON ARNOLD

NO. 0626 P. 1/10



301 RAVENSWOOD AVENUE  
MENLO PARK, CA 94025-3434  
PHONE: 650.463.8100 • FAX: 650.463.8400

**URGENT**

**FACSIMILE COVER SHEET**

**DATE:** June 19, 2003

**TO:** **NAME:** Examiner Janet I. Epps (Group Art Unit 1635)

**COMPANY:** Commissioner for Patents, USPTO

**FAX NUMBER:** (703) 746-5143 **PHONE NUMBER:** \_\_\_\_\_

**CITY:** WASHINGTON, D.C. 20231

**FROM:** **NAME:** Albert P. Halluin/Robin C. Chiang/walleje

**DIRECT DIAL NUMBER:** 650.463.8127 **USER ID:** 2020

**NUMBER OF PAGES, INCLUDING COVER:** 10 **CHARGE NUMBER:** 02486.0025.CPUS01

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☐ **OTHER:** \_\_\_\_\_

☒ **ORIGINAL WILL NOT FOLLOW**

**SUPPLEMENTAL MESSAGE:**

**Message:** Transmitted herewith are:

1. Statement Under 37 CFR 1.8(B)(1) (2 pages);
2. Cover letter (1 page);
3. Response (2 pages);
4. Declaration (1 page);
5. Paper copy of CD containing the electronic copy of document containing the Sequence Listing (1 page); and
6. Return stamped postcard (front and back) (2 pages).

**PLEASE CONFIRM RECEIPT OF THIS FAX TRANSMISSION BY RETURN FACSIMILE AT (650) 463-8400.**

Thank you.

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